

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

National Football League and
NFL Properties LLC,
successor-in-interest to
NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:
ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

**CO-LEAD CLASS COUNSEL'S MOTION FOR EXTENSION OF TIME
TO FILE REPLY MEMORANDUM IN SUPPORT OF THEIR FEE PETITION
AND TO SET COORDINATED BRIEFING SCHEDULE**

Co-Lead Class Counsel respectfully move for an extension of time and for the Court to set a coordinated briefing schedule in order to streamline the process concerning the awarding of attorneys' fees and reimbursement of costs and expenses to counsel representing the Plaintiff Class and, to the extent appropriate, those counsel representing objectors in this MDL.

Since Co-Lead Class Counsel filed their Petition for an Award of Attorney's Fees, Reimbursement of Costs and Expenses, Adoption of a Set-Aside of Each Monetary Award and

Derivative Claimant Award, and Case Contribution Awards for Class Representatives [ECF No. 7151] on February 13, 2017 (“Class Counsel Petition”), three responses have been filed. These are the objection to Class Counsel’s Petition filed by John J. Pentz, counsel for objector Cleo Miller [ECF No. 7161]; a motion for entry of a Case Management Order concerning the filing and briefing of fee petitions, filed by Lance H. Lubel, counsel for the so-called Alexander Objectors [ECF No. 7176], who suggested that there will be other fee petitions filed by objector counsel or by those plaintiffs’ counsel who are not members of the Plaintiffs’ Steering Committee (“PSC”) or the Plaintiffs’ Executive Committee (“PEC”)¹; and the partial opposition of the Estate of Kevin Turner [ECF No. 7205], which does not oppose the requested fee award but does challenge the requested 5% set-aside from Monetary Awards.

In addition, prior to the filing of the Class Counsel Petition, two counsel for objectors to the Settlement had filed either a fee petition or a statement of an intention to file one. Specifically, Steven F. Molo, counsel for the Faneca Objectors, filed a Petition for an Award of Attorneys’ Fees and Expenses on January 11, 2017 [ECF No. 7070], to which Co-Lead Class Counsel filed a preliminary response on January 25, 2017, asserting that the filing was premature [ECF No. 7106]. On January 31, 2017, counsel for objectors Preston and Katherine Jones, James T. Capretz, filed a letter, stating that he would be filing a fee petition “shortly” [ECF No. 7116],

¹ To the extent there are, those counsel cannot seek compensation out of the Attorneys’ Fees Qualified Settlement Fund. The exclusive purpose of that fund is to pay the fees and expenses only of Class Counsel. *See* Settlement Agreement §§ 21.1-21.2, ECF No. 6481-1, at 82. The deadline to contest the Class Counsel Petition and otherwise claim payment out of Class Counsel’s fees expired upon the February 27, 2017 deadline for the filing of responses to the Class Counsel Petition, which was filed on February 13, 2017. *See* E.D. Pa. Civ. R. 7.1(c) (any party opposing motion must file response within 14 days after service of motion and brief). As of this date, the only timely claim for fees filed by non-Class Counsel is that of the Faneca Objectors (*i.e.*, Mr. Molo’s).

although no petition has been filed as of this date.²

Now that the Class Counsel Petition and responses thereto have been filed and the deadline for the filing of objections has passed, *see supra* at 2 n.1, the briefing of that petition, the responses thereto, and Mr. Molo's cross-petition should be consolidated and coordinated. Co-Lead Class Counsel intend to file a single omnibus response to all of the filings of the aforementioned counsel, including Mr. Molo's cross-petition. An omnibus response will streamline the attorneys' fees proceedings and serve the interests of judicial efficiency and economy by having a single, consolidated response filed on one date instead of piecemeal replies or responses to the various filings, thereby sparing the Court from having to consult a multiplicity of briefs for Class Counsel's responses to the various arguments of objectors made either in opposition to the Class Counsel Petition or in support of their own cross-petition for fees.

As such, Co-Lead Class Counsel require additional time to address all arguments meriting responses. Under the Local Rules, unless an extension is granted, the first of Co-Lead Class Counsel's responses to these filings, namely their reply to Mr. Pentz's objection [ECF No. 7161], would be due this Friday, March 3, 2017.

Accordingly, Co-Lead Class Counsel respectfully request that the Court grant the requested extension and propose that it set the following coordinated briefing schedule:

1. Co-Lead Class Counsel's omnibus memorandum in reply to all objections or other responses to the Class Counsel Petition and in response to the Faneca Objectors' (*i.e.*, Mr. Molo's) cross-petition for attorneys' fees and reimbursement of expenses shall be filed no later than **March 16, 2017**.

² Thus, for the reasons explained in note 1 above, any petition for payment out of Class Counsel's fees would now be out of time.

2. The Faneca Objectors' reply in support of their cross-petition for attorney's fees and reimbursement of expenses shall be filed no later than **March 27, 2017**.³

Dated: February 28, 2017

Respectfully submitted,

/s/ Christopher A. Seeger
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Co-Lead Class Counsel

³ Because the instant motion is purely procedural, Co-Lead Class Counsel respectfully request that the Court relieve them of the Local Rule 7.1(c) requirement of the filing of a supporting brief.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing was served electronically via the Court's electronic filing system on the date below upon all counsel of record in this matter.

Dated: February 28, 2017

/s/ Christopher A. Seeger
Christopher A. Seeger